

Article - Health - General

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§10–705.

- (a) (1) In this section the following words have the meanings indicated.
- (2) (i) “Abuse” means cruel or inhumane treatment that causes:
 - 1. Any physical injury; or
 - 2. Any of the following kinds of sexual abuse:
 - A. A sexual act, as defined in § 3–301 of the Criminal Law Article;
 - B. Sexual contact, as defined in § 3–301 of the Criminal Law Article; or
 - C. Vaginal intercourse, as defined in § 3–301 of the Criminal Law Article.
- (ii) “Abuse” does not include:
 - 1. The performance of an accepted medical procedure that a physician orders in a manner that is consistent with the provisions of this subtitle; or
 - 2. An action taken by an employee that complies with applicable State and federal laws and applicable Department policies on the use of physical intervention.
- (3) “Sexual harassment” means intimidation, bullying, or coercion of a sexual nature or unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that tends to create a hostile or offensive environment.
- (b) (1) A person or any employee of a facility or of the Department who receives a complaint of abuse, or who observes or has reason to believe that abuse has occurred, shall promptly report the alleged abuse to:
 - (i) An appropriate law enforcement agency; or

(ii) The administrative head of the facility, who promptly shall report the alleged abuse to an appropriate law enforcement agency.

(2) A report:

(i) May be oral or written; and

(ii) Shall contain as much information as the reporter is able to provide.

(3) A State facility shall report complaints of sexual abuse and sexual harassment to the State designated protection and advocacy system.

(c) (1) The law enforcement agency shall:

(i) Investigate thoroughly each report of an alleged abuse; and

(ii) Attempt to ensure the protection of the alleged victim.

(2) The investigation shall include:

(i) A determination of the nature, extent, and cause of the abuse, if any;

(ii) The identity of the alleged abuser; and

(iii) Any other pertinent fact or matter.

(d) As soon as possible, but no later than 10 working days after the completion of the investigation, the law enforcement agency shall submit a written report of its findings to the State's Attorney, the State designated protection and advocacy system, and the administrative head of the facility.

(e) A person shall have the immunity from liability described under § 5–626 of the Courts and Judicial Proceedings Article for:

(1) Making a report under this section;

(2) Participating in an investigation arising out of a report under this section; or

(3) Participating in a judicial proceeding arising out of a report under this section.

(f) The Administration shall ensure that State facilities:

(1) Develop uniform policies and procedures on making and responding to allegations of sexual abuse or sexual harassment;

(2) Ensure that staff provide assistance to patients who have requested assistance in making complaints about sexual abuse or sexual harassment;

(3) Develop and oversee training for staff on how to identify and prevent sexual abuse and sexual harassment, how to respond to complaints, and how to support victims in an appropriate manner; and

(4) Develop and oversee patient education on identifying sexual abuse and sexual harassment and on reporting incidents of sexual abuse and sexual harassment.

(g) The Administration shall develop and implement a plan to secure the sleeping quarters of male and female patients at all State facilities that maximizes the use of available resources and infrastructure.

(h) Each State facility shall:

(1) Use evidence-based screening tools to identify on admission a patient's risk of being a victim of sexual or physical abuse, or being a sexual or physical abuser, and shall consider the assessment of risk in making any unit and room assignment;

(2) Reassign any patient accused of sexual assault promptly to another unit and ensure that any alleged victim and the alleged assailant are not housed in the same unit;

(3) Provide a patient who has a history of sexual trauma with treatment and education that is evidence-based or reflective of best practices to reduce the likelihood of the patient being the victim of repeated sexual abuse; and

(4) Ensure that designated clinical staff are trained in at least one trauma recovery modality that is considered to be a best practice.

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